

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOHN MAUZY PITTMAN, JUDGE

DIVISION I

CACR07-442

January 23, 2008

EDDIE MICHAEL JORDAN

APPELLANT

APPEAL FROM THE WASHINGTON
COUNTY CIRCUIT COURT [NO. CR-
06-733]

V.

HON. WILLIAM A. STOREY,
JUDGE

STATE OF ARKANSAS

APPELLEE

AFFIRMED

Appellant was convicted of being an accomplice to the delivery of a controlled substance and sentenced to ten years' imprisonment. On appeal, he argues that the evidence is insufficient to support his conviction. We affirm.

One who purposely aids another in the commission of an offense is an accomplice. Ark. Code Ann. § 5-2-403(a)(2) (Supp. 2007). Appellant was accused of participating in the delivery of crack cocaine, a controlled substance. Delivery of a controlled substance is a violation of Ark. Code Ann. § 5-64-401(a) (Supp. 2007). The transfer of a controlled substance from one person to another in exchange for money constitutes delivery, whether or not there is an agency relationship. Ark. Code Ann. § 5-65-101(7) (Supp. 2007).

Evidence of an offense is sufficient for purposes of appellate review when there is

substantial evidence to support the verdict; substantial evidence is evidence that is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or another. *Malone v. State*, 89 Ark. App. 281, 202 S.W.3d 540 (2005). In determining whether the evidence is substantial, we view the evidence in the light most favorable to the State, considering only the evidence that supports the verdict. *Id.* In so doing, we do not weigh evidence or pass on credibility of witnesses; that duty is left to the trier of fact. *Lowe v. State*, 357 Ark. 501, 182 S.W.3d 132 (2004).

Appellant acknowledges that there is evidence to place him at the scene of a controlled substance delivery but asks us to consider the weakness of the evidence corroborating¹ the testimony against him. This we cannot do. *See id.* There was evidence that a controlled buy was arranged and monitored by police officers. A confidential informant testified that he gave appellant money in exchange for crack cocaine, that appellant left the premises for a short time and returned with crack cocaine, and that he then gave the crack cocaine to the informant. Police officers observed appellant leaving the house and counting money as he walked up to a vehicle that just pulled into a driveway. They also observed appellant leaning on the window frame of the vehicle for about thirty seconds and then returning to the house where the confidential informant was waiting. Subsequently, the police officers debriefed the confidential informant and recovered the crack cocaine that

¹A buyer of illicit drugs is not an accomplice of the seller. *Talley v. State*, 312 Ark. 271, 849 S.W.2d 493 (1993). Therefore, this case presents no question regarding the sufficiency of corroboration required for accomplice testimony. *See generally Price v. State*, 365 Ark. 25, 223 S.W.3d 817 (2006).

appellant had given him. We hold that this is substantial evidence to support appellant's conviction of being an accomplice to the driver of the vehicle in the delivery of a controlled substance.

Affirmed.

GLADWIN and BAKER, JJ., agree.